

## CHAPTER SIX:

# CONSULTATION AND COORDINATION



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### INTRODUCTION

This chapter describes the public involvement, agency coordination and required consultation procedures in compliance with the National Environmental Policy Act (NEPA).

NEPA is the national charter for environmental protection. Title I of the law requires that federal agencies plan and carry out their activities "so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment."

The requirements of the act are fulfilled when extensive public involvement in the planning and development of any proposed federal actions and consideration of potential impacts to the cultural, natural and socioeconomic

environment have taken place. This is accomplished through the environmental assessment (EA). This EA is essentially a programmatic statement, presenting an overview of potential impacts relating to the proposed program for each alternative. More detailed plans will be developed for individual actions prior to implementation. The requirements for this National Historic Trail Study will be completed when the Finding of No Significant Impact (FONSI) is signed by the Regional Director, Northeast Region, NPS.

### PROJECT SCOPING AND CIVIC ENGAGEMENT

Public and stakeholder involvement for this trail study has been coordinated by the NPS's Northeast Regional Office, with assistance

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from the Chesapeake Bay Program Office and Washington Office. A study team was formed and includes representatives of the NPS's Northeast and National Capital regional offices, Chesapeake Bay Program Office, Washington Office, Fort McHenry NMHS, Colonial NHP, and Jamestown NHS and representatives of the U.S. Fish and Wildlife Service. To solicit public input, the study team maintained a website, issued two newsletters, and met with the Chesapeake Bay Gateways Working Group on three occasions. As of May 31, 2006, prior to public release of the draft study report, over 250 letters had been received from individuals, local governments, and non-profit organizations supporting the concept of designation of the Captain John Smith Chesapeake NHT.

Since the beginning of the study process in November 2005, this project has engaged the public, interested individuals, and organizations. The study team conducted work sessions with project partners and stakeholders, and hosted one roundtable of interdisciplinary experts in an effort to better understand what is historically significant about the proposed trail. The study team also has contacted federal and state agencies.

## **INTERAGENCY CONSULTATION**

All relevant local, state and federal agencies, tribal organizations, and regional institutions, including the Chesapeake Bay Foundation, the Chesapeake Bay Commission, and the Chesapeake Bay Program have been notified of the study process; invited to comment on material; and asked to provide input and information to inform the Environmental Assessment.

### **Consultation with the Advisory Council on Historic Preservation, Maryland Historical Trust, and the Virginia Department of Historic Resources**

Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470, et seq.), requires that federal agencies that have direct or indirect jurisdiction take into account the effect of undertakings on National Register properties and allow the Advisory Council on Historic Preservation (AChP) and the State Historic Preservation Office (SHPO) an opportunity to comment. Toward that end, the NPS will work with the Maryland Historical Trust and the Virginia Department of Historic Resources and the Advisory Council to meet the requirements of 36 CFR 800 and the September 1995 programmatic agreement among the National Conference of State Historic Preservation Officers, the Advisory Council on Historic Preservation, and the NPS. This agreement requires the NPS to work closely with the SHPO and the AChP in planning and design for new and existing NPS areas.

To ensure that any trail proposals that might affect properties listed or eligible for the National Register comply with provisions of Section 106, the AChP and the SHPO (Maryland Historical Trust and Virginia Department of Historic Resources) were invited to participate in the planning process. Representatives of the SHPO and AChP have had an opportunity to provide input and will review and comment on the Draft EA.

The September 1995 programmatic agreement also provides for a number of programmatic exclusions for specific actions that are not likely to have an adverse effect on cultural resources. These actions may be implemented without further review by the SHPO or the AChP provided that NPS internal review finds the actions meet certain conditions and this review is documented with an assessment of effect. Undertakings, as defined in 36 CFR 800, not specifically excluded in the programmatic agreement must be reviewed by the SHPO and the AChP during the planning and design stages and before implementation. Throughout the process there will be early

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consultation on all potential actions.

Prior to any ground-disturbing action by the NPS, a professional archeologist will determine the need for further archeological inventory or testing evaluation. Any such studies will be carried out in conjunction with construction and will meet the needs of the SHPO as well as the NPS. Any large-scale archeological investigations will be undertaken in consultation with the SHPO. Responsibility for protecting archeological resources is included under several laws mentioned earlier as well as the Archeological Resources Protection Act of 1979.

### **Consultation with American Indian Tribes**

Potentially relevant to the development and management of the proposed trail are the various laws and regulations that deal with American Indian relationships and discovery of human remains. United Indians of Virginia, Maryland Indian Affairs Commission, and the Virginia Indian Council were contacted by letter to involve them in the planning process, and were asked to participate on the peer review committee, to gain an understanding of tribal concerns, and to determine whether or not there might be ethnographically sensitive areas within the study area. The NPS American Indian Liaison Office was also contacted. The 1992 amendments to the National Historic Preservation Act and the Archeological Protection Act provide means whereby information about the character, location, or ownership of archeological sites, historic properties, and ethnographic sites, including traditional and cultural sites, might be withheld from public disclosure. This provision is especially important for archeological sites, where disclosure could risk harm to potential and actual resources. Throughout the planning process, and as additional archeological discoveries are made, protective measures will be taken to protect archeological resources.

The NPS will continue to consult with American Indian tribes on a government-to-government basis. This special legal relationship is outlined in the secretary's April 29, 1994, memorandum for the heads of executive departments and agencies. In keeping with this mandate and provisions of NEPA, the NPS will consult with American Indian groups on planning and management activities that affect their historical connection with the proposed Captain John Smith Chesapeake NHT. The NPS will develop and accomplish its programs in a way that reflects the respect for the beliefs, traditions, and other cultural values of the American Indian tribes with ancestral ties to the area.

### **Consultation with U.S. Fish and Wildlife Service**

Section 7 of the Endangered Species Act of 1973, as amended (16 USC 1531 et seq.), requires all federal agencies to consult with the U.S. Fish and Wildlife Service to ensure that any action authorized, funded, or carried out by the agency does not jeopardize the continued existence of listed species or critical habitat.

Informal and formal consultations did not indicate that any rare, threatened, or endangered species will be affected by the proposed trail. The NPS will continue to consult with the U.S. Fish and Wildlife Service regarding habitat requirements and management strategies for rare, threatened and endangered species before the implementation, design and construction phases of any proposed actions. The NPS will develop and implement measures in consultation with the U.S. Fish and Wildlife Service to ensure that protected federal listed species and their habitats will not be affected.

### **Consultation with Delaware Department of Natural Resources and Environmental Controls, Maryland Department of Natural Resources, Maryland Department of Agriculture, Maryland Department of Environment, Virginia Department of Game and**

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**Inland Fisheries, Virginia Department of Agriculture and Consumer Services, and Virginia Department of Conservation and Recreation, Virginia Marine Resources, Department of Environmental Quality**

NPS Management Policies require cooperation with appropriate state conservation agencies to protect state-listed and candidate species of concern in the parks. The Virginia Department of Game and Inland Fisheries (VADGIF), Maryland Department of Natural Resources (MDNR), and the Delaware Department of Natural Resources and Environmental Control (DNREC) are consulting agencies under the U.S. Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), providing environmental analysis of projects or permit applications coordinated with the appropriate state and federal agencies.

The NPS consulted with the state natural resources agencies to ascertain the presence of any state-listed or candidate rare, threatened or endangered species that could be affected by this project.

The Maryland Department of Agriculture and the Virginia Department of Agriculture and Consumer Services were consulted for additional information on the potential or confirmed presence of federally or state-listed rare, threatened and endangered species or candidate species of concern in or near the study area.

MDNR, DNREC, and the Natural Heritage Division of the Virginia Department of Conservation and Recreation (VA DCR) were contacted for information on the management of potential habitat for rare species. The NPS will continue to consult with MDNR, DNREC, the VADGIF, the Virginia Department of Agriculture and Consumer Services, and the Virginia Department of Conservation and Recreation, Natural Heritage Division, regarding habitat require-



Courtesy of Colonial National Historical Park

ments and management strategies for state-listed rare, threatened or endangered species or state species of concern before the design and construction phase of any proposed actions. The NPS will develop and implement measures in consultation with appropriate state agencies to ensure that protected state-listed species and their habitats will not be affected.

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